THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 16531 of 2006

30-08-2006

Between:-

P.V. Rama Raju

Petitioner

And

The District Collector, Guntur and another.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.16531 of 2006

Oral order:

Heard the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition for the respondents.

The writ petition is filed, in substance, seeking a direction to the respondents to refer his objections for reference to the civil court under Section 18 of the Land Acquisition Act, 1894 (for short 'the Act'). The petitioner claims to have been the owner of Ac.0-76 cents in survey No. 463/3A 2B and of Ac.0-08 cents in survey No.464/2 of Nizampatanam village and mandal, Guntur district. Advance possession of the property is claimed to have

been obtained by the Executive Engineer, KWD, Tenali for the purpose of excavation of a water channel. As no compensation was paid for more than two decades, the petitioner filed W.P.No. 14779 of 2002 assailing the taking of advance possession and failure to initiate land acquisition proceedings. This court, by the order dated 29-04-2003 recorded the fact that the State Government issued G.O.Rt.No.329 dated 09-04-1987 approving a notification issued under Section 4 (1) of the Act for publication in the Gazette and had also directed the District Collector, Guntur to ensure that the substance of the notification is published in the local area, within forty (40) days from the date of publication of Gazette. This court also recorded that the acquisition proceedings initiated in 1987 had lapsed, as the mandatory provisions of the Act were not complied with.

As even by 29-04-2003 no acquisition proceedings were initiated, in the context of the dispossession of petitioner's lands over twenty years earlier, this Court impleaded the Chief Secretary to the Government of Andhra Pradesh as a respondent in the writ petition and directed the Chief Secretary to initiate inquiry by deputing an officer not below the rank of a Principal Secretary to the Government to identify the officer or officers who were responsible for dispossession of the petitioner from his

lands and also directed interim compensation of Rs.25,000-00 (Rupees twenty five thousand only) to the petitioner, while directing the State to take immediate action against officers responsible for abuse of official position in the matter of dispossessing the petitioner without due process of law. This court further observed in its order dated 29-04-2003 that the amount of Rs.25,000-00 payable to the petitioner shall be paid *de hors* the compensation the petitioner would be entitled to for acquisition of his lands.

Eventually, it would appear, the respondents initiated land acquisition proceedings and appointed the 2nd respondent as the competent authority. The 2nd respondent passed Award No.12 of 2003 on 02-08-2003 fixing the market value at Rs.80,000-00 per acre. Dissatisfied with the quantum of compensation determined, the petitioner received the compensation under protest and along with other affected persons (whose lands were also acquired under the same acquisition proceedings), got issued a lawyer's notice on 01-09-2003 seeking reference to the civil court under Section 18 of the Act for re-determination of market value, clearly stating that the petitioner and others were dissatisfied with the market value as fixed by the 2nd

respondent.

Aggrieved that the respondents failed to refer his objections to the civil court under Section 18 of the Act, the writ petition is filed.

On 30-05-2006, responding to another representation of the petitioner, the 2nd respondent communicated the petitioner an endorsement informing him that individual written applications were not filed by awardees as required under Section 18 of the Act for making a reference to the civil court and therefore the petition seeking reference is being rejected.

The learned Government Pleader for Land Acquisition appearing at the hearing today states that Section 18 of the Act does not permit or envisage the making of a written representation on behalf of a person interested and that those persons whose lands have been acquired, would themselves have to make an application and individually. The above contention urged on behalf of the respondents by the learned Government Pleader for Land Acquisition is stated to be rejected. It is not the case of the respondents that the advocate, who issued notice dated 01-09-2003, asserting to have issued the notice under instructions from his clients (including the petitioner) had no authority to represent the petitioner and others.

There is nothing in Section 18 of the Act which requires that a person interested must himself draft written objections and submit them. The law is not about technicalities, but about the substance of the requirement. The petitioner and other oustees have thought fit to represent their grievance and submit their objections to the quantum of compensation determined by the 2nd respondent, through counsel. They are at liberty to do so. It is no part of the respondents duty to insist that the land oustees should follow a particular procedure nor is it fair on the part of the respondents to insist that persons whose lands are acquired should themselves draw up and make written objections. If written objections to the award passed are submitted through counsel by persons interested or on their behalf, it would be sufficient compliance with the provisions of Section 18 of the Act. The contentions to the contra urged on behalf of the respondents are therefore misconceived.

Accordingly, the respondents are directed to forthwith refer the objections of the petitioner as reflected in the notice dated 01-09-2003 issued by Sri S. Rama Rao, Advocate, Kothapet, Tenali, to the civil court under Section 18 of the Act.

The writ petition is disposed of as above. No costs.

GODA RAGHURAM, J

Dated:30-08-2006
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